

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

File No. GP03-03-15 and PDC03-103, General Plan amendment to change the San Jose 2020 General Plan Land Use/Transportation Diagram from Light Industrial to Medium Density Residential (8-16 DU/AC) and a Planned Development Rezoning from LI Light Industrial to A(PD) Planned Development Zoning District to allow 77 single-family detached residential units on a 7.7 gross acre site located on the west side of Highway 10, between Kelly Court and Sunny Court. (Sorrento Lactalis, Inc., Owner/Jeff McMullen- KB Home, Developer). Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **October 26, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **October 7, 2004** and ends on **October 26, 2004**

A public hearing on the project described above is tentatively scheduled for **November 1, 2004 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the East San Jose Carnegie Branch Library at 1102 East Santa Clara Street, San José, CA 95116 San Jose, and online at <http://www.sanjoseca.gov/planning/eir/MND2004.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Lesley Xavier** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: October 7, 2004

Deputy



Scale: 1"=210'
Date: 12/17/2003



File No: PDC03-105

District: 09

Quad No: 128

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT FILE NUMBER: PDC 03-105

PROJECT DESCRIPTION: Planned Development Rezoning from A(PD) Planned Development District to A(PD) Planned Development Zoning District to allow 6 single-family detached residential units on a 0.81 gross acre site

PROJECT LOCATION & ASSESSORS PARCEL NO.: Southwest corner of Kirk Road and Salisbury Drive; APN 447-34-077 & -082

COUNCIL DISTRICT: 9

NAME OF APPLICANT: Pastor Kamil Navai

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:
1202 Meridian Avenue, San Jose CA 95125

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

AIR QUALITY

The following construction practices shall be implemented during all phases of construction for the proposed project.

1. Water all active construction areas at least twice daily or as often as needed to control dust emissions.
2. Cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
3. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
4. Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.

5. Sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.
6. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
7. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.
8. Limit traffic speeds on unpaved roads to 15 mph.
9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
10. Replant vegetation in disturbed areas as quickly as possible.

BIOLOGICAL RESOURCES

11. All non-orchard trees that are to be removed shall be replaced at the following ratios:
 - Each tree less than 12" in diameter to be removed = one 15 gallon tree
 - Each tree 12" to 18" diameter to be removed = two 24" box trees
 - Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree greater than 18" diameter to be removed = four 24" box trees
12. The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:
 - An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
 - A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Director of Planning, Building, and Code Enforcement prior to issuance of a grading permit.

HYDROLOGY/WATER QUALITY

13. During construction, burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
14. During construction, earthmoving or other dust producing activities would be suspended during periods of high winds.
15. During construction, all exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
16. During construction, stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
17. During construction, all trucks hauling soil, sand and other loose materials would be covered and/or all trucks would be required to maintain at least two feet of freeboard.
18. All paved access roads, parking and staging areas and residential streets adjacent to the construction sites would be swept daily with water sweepers.

NOISE

19. Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.

20. The contractor will be required to use “new technology” power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engines used on the project site would be equipped with adequate mufflers and would be in good mechanical condition to minimize noise created faulty or poorly maintained engines or other components.
21. The developer will implement a Construction Management Plan approved by the City to minimize impacts on the surrounding sensitive land uses, particularly the residences, to the fullest extent possible. The Construction Management Plan would include the fullest extent possible. The Construction Management Plan would include the following measures to minimize impacts of construction upon adjacent sensitive land uses:
 - A) Early and frequent notification and communication with the neighborhood and other land uses of the construction activities, including the onset, expected consequences, and actual consequences of various construction activities, as well as a commitment to, whenever possible, reduce problems that occur.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 27, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: October 8, 2004

Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

The Planning Commission and the City Council of the City of San José will consider a change in **ZONING** at a public hearing in accordance with Title 20 of the San José Municipal Code on:

Planning Commission Hearing
Wednesday, October 27, 2004

6:00 p.m.

City Council Chambers, Room 205
City Hall
801 North First Street
San Jose, CA 95110

City Council Hearing
Tuesday, November 09, 2004

7:00 p.m.

City Council Chambers, Room 205
City Hall
801 North First Street
San Jose, CA 95110

The project being considered is:

PDC03-105. Planned Development Rezoning from A(PD) Planned Development District to A(PD) Planned Development Zoning District to allow 6 single-family detached residential units on a 0.81 gross acre site, located at/on the Southwest corner of Kirk Road and Salisbury Drive (Iranian Christian Church, Owner). Council District 9. SNI: None. CEQA: Mitigated Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review, and a permit with recommendations will be available for your review during the week of the public hearing from **9:00 a.m. to 5:00 p.m.**, Monday, Wednesday, Fridays, and from **10:00 a.m. to 5:00 p.m.** Tuesday and Thursdays at:

Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, CA 95110
(408) 277-4576

www.ci.san-jose.ca.us/planning/sjplan/

You are welcome to attend and to speak on this issue. To arrange an accommodation under the Americans with Disabilities Act to participate in this meeting, please call (408) 277-4576 (Voice) at least 48 hours before the meeting.

** If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.*

Comments and questions are welcome and should be referred to the **Project Manager, Michael Mena**, at the e-mail address: michael.mena@sanjoseca.gov in the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project.



Joseph Horwedel,
Deputy Director, Plan Implementation Division

Lee Price, CMC
City Clerk

Dated: **September 24, 2004** Noticing Radius: **500 ft**

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE
ESTABLISHES A FORMAL PROTEST PROCEDURE FOR REZONINGS
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezonings, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.